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# The San Diego REALTOR®



THE TRUSTED VOICE OF SAN DIEGO REAL ESTATE

What's Happening at SDAR • August 2010

## REALTOR® ROUNDTABLES: A NEW APPROACH TO THE TRADITIONAL CARAVAN

In the last year, SDAR has expanded its services into South and East County to better accommodate the nearly 2,000 SDAR members living and working in these regions. With the opening of service centers in Chula Vista and El Cajon, we are now able to provide complete membership services, lockbox assistance, store purchases, and education courses in these areas.

As more and more foot traffic comes through the doors, we learn additional ways we can help bolster your business. It quickly became evident that South and East County were in need of property pitch sessions, but we've added a twist to what is seen in other communities throughout the San Diego region.

### Properties + Education = More Income

The uniqueness of these pitch sessions is the combination of the stan-

dard property pitch session with an education class. SDAR firmly believes that education should be a staple in your continuing growth as a REALTOR®. Because of this, individuals who attend the SDAR REALTOR® Roundtable at either the South or East County locations can also attend a FREE class immediately following the property pitch session.

Classes have included such topics as Bank of America's short sale process, "FHA: Not Just for First-time Homebuyers", "Introduction to Social Media," and this month includes "Real Estate is a Numbers Game" and "Twitter."

### South County Service Center

SDAR has already hosted two REALTOR® Roundtables at our South County Service Center. Starting in September, these will occur on the second Wednesday of each month at 9:00

a.m. with the education class starting at 10:00 a.m. These Roundtables are still in their infancy, so South County agents are encouraged to attend and share their thoughts on how we can make these meetings as beneficial as possible.

### East County Service Center

On July 21 we held the first Roundtable at our East County Service Center. There was a lot of interest in this new pitch session and eagerness in seeing them continue. The next Roundtable is scheduled for August 25. Input gathered at this and future meetings will help us determine future scheduling, as well as the overall format of the Roundtables.



Roundtables are the perfect venue to hear about new properties on the market, to share your listings, network with fellow REALTORS®, as well as learn about important hot topics in the FREE education class.

If you haven't been to a REALTOR® Roundtable yet, we encourage you to join us in the near future. For more information or to RSVP for a future Roundtable, call (858) 715-8003 or email [invitation@sdar.com](mailto:invitation@sdar.com). If you are interested in sponsoring an upcoming South or East County Roundtable, please contact Julie Lukoski at (858) 715-8004 or [sales@sdar.com](mailto:sales@sdar.com).

PERIODICAL

## FANNIE MAE LAUNCHES ONLINE RESOURCE TO EDUCATE STRUGGLING HOMEOWNERS



In early August, Fannie Mae announced the launch of KnowYourOptions.com, a new consumer education website that outlines the choices available to homeowners who are struggling with their mortgage payments, and provides guidance on how they can contact and work with their mortgage company to find solutions.

The online resource, which offers reliable and easy-to-understand information in both English and Spanish, expands on Fannie Mae's ongoing efforts to help struggling borrowers find alternatives to foreclosure.

### Key features of KnowYourOptions.com include:

- Interactive Options Finder to help homeowners identify options that might be right for their situation

- Calculators to help borrowers understand how many of the options work, including refinance, repayment, forbearance, and modification
- Videos featuring real homeowners discussing how they received help and housing counselors providing advice
- A virtual assistant to walk homeowners through key areas of the site
- Next steps and helpful forms, including a financial checklist and contact log to help borrowers be prepared when contacting their mortgage company or housing counselor

For homeowners who are having trouble paying their mortgage but want to stay in their homes,

KnowYourOptions.com provides information on refinancing, repayment plans, forbearance, modifications and Deed-for-Lease™. There is also a section on foreclosure scams.

For homeowners who recognize that they can no longer afford their mortgages but want to avoid having a foreclosure on their credit history, the site provides information on alternatives including short sales and deeds-in-lieu.

Fannie Mae plans to implement a comprehensive marketing outreach campaign to raise awareness about the site, and also intends to use the site as a vehicle to roll out new options for borrowers that are currently being developed.

For more information visit [www.KnowYourOptions.com](http://www.KnowYourOptions.com) or [www.fanniemae.com](http://www.fanniemae.com).



## PRESIDENT'S PERSPECTIVE

I hope you have been enjoying your summer so far. Whether you took some time off for vacation or you have been closing deals, you are probably getting ready for the upswing we typically see as the fall real estate season begins.

Let's start with the statistics for July. Not unexpectedly, sales were slower in July than they have been in some time. We see that there was a slight decrease in sales when compared to previous month, about 13 percent. July is also one of the few months

this year that sales were down when compared to 2009, with a 14 percent decrease. Median sales price are down only slightly since last month, but remain almost 5 percent higher than this time last year. The median price year-to-date remains about 12 percent higher than last year as well. I'm hoping that sales will pick up soon since mortgage rates continue to be low and there has been a slight increase in available inventory since last month. Turn to the inside pages for more highlights.

Next month we will have our 3rd Annual Everyday Heroes 5K Walk/Fun Run. The SDAR Ambassadors Foundation has been able to successfully help a dozen San Diego police officers purchase homes. Many more are still in need of assistance so they

can buy their own homes here in San Diego. It is only through the generous donations of our members and others that we can keep providing this much-needed assistance. I hope you will join us on September 26 at De Anza Cove for this wonderful event.

The annual elections are also not too far around the corner. Candidates for President-Elect, Vice President, Treasurer and Board of Directors have been approved by the Board of Directors and are available for review on our website. You can also see the schedule for the election cycle. Voting will occur in late October. More information will be available soon. The October issue will also feature a candidate guide. I encourage you to participate in the elections and the future of your association.

Mark your calendar for Membership Appreciation Day scheduled for November 12. This annual event is a great opportunity to mingle with your colleagues and enjoy some great food as we acknowledge our valuable members.

I hope to see you at upcoming events. May the rest of August treat you well!

Sincerely,

Mark Marquez

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## FROM THE DESK OF THE CEO

At SDAR we strive to help you make the most out of your business. Whether it's free or discounted services, or simply networking opportunities, we have it.

One such benefit is REALTOR® Plus+ which gives you advantages such as one extra free PC repair per year, 15% discounts on education classes and store products, and better exposure in the SDAR REALTOR® database. REALTOR® Plus+ members get enhanced profiles that include photos, additional web links, and brief bios. Being a REALTOR® Plus+ member also means you get bumped to the top of the search results when buyers and sellers visit our website to find a REALTOR®. This membership is only \$49 per year and is prorated throughout the year, so try it out at any time! If you haven't already taken advantage of our REALTOR® Plus+ program, I encourage you to call your personal concierge team member to sign up.

When we started posting open houses and rental vacancies on our website late last year, we had no idea how popular the service would be. As more and more

of our members take advantage of these free services, we've had to streamline the process. Members may now use the online "My Account" feature to list open houses and rentals at any time. This means you no longer have to fax these in to SDAR during business hours...your online submissions are posted immediately and can be edited at any time. Turn to page X to read more about "My Account" and how to post your listings.

We are fortunate to have a great radio show, "Real Estate Today," hosted by Erik Weichelt and George Chamberlin. I hope you tune in to KOGO AM 600 on Sunday mornings at 9 a.m. We feature guests from all facets of the real estate industry, elected officials, partner organizations, and more. We invite REALTORS® to join us for our "Tour of San Diego" by joining

us in-studio to share the trends and benefits of a neighborhood or community in San Diego County. Don't forget about the "Open House Hotline"...call in and share details on the air about a property you are showing that day. Call (800) 600-KOGO during the last segment of the show or visit [www.sdar.com](http://www.sdar.com) and click on "Radio/Media" for more information.

If you are looking to get involved at SDAR, our committees are for you. We have several standing committees on various topics related to your business. Within the last year we recognized growing segments of our membership and added the Young Professionals Network (YPN) Committee and the International Council. There really is something for everyone. Call (858) 715-8000 for more information.

Enjoy the rest of August and the Labor Day holiday!

Sincerely,

Michael T. Mercurio

## BOARD OF DIRECTORS HIGHLIGHTS OF JULY 2010 MINUTES

**• President's Report:** Mark Marquez presented a report to the Directors on the recent member vote to merge with the North County Association of REALTORS®. Although SDAR's members approved the merger by 93%, the North County member vote was split, with those against it prevailing by 356 votes.

**• President's-Elect's Report:** Bob Kevane recently attended many of the merger meetings and town halls scheduled just prior to the vote.

**• Vice President's Report:** Raylene Brundage attended the C.A.R. Directors pre-meeting and the C.A.R. meetings in Sacramento, two Executive Committee meetings and local caravans.

**• Treasurer's Report:** Linda Lee reported that membership on July 2 was 10,645, and recruitment is at 12%, with 1,384 new members since November 2009. She also attended several WCR meetings, the Sacramento C.A.R. meetings, and Executive Committee.

**• Committee Business:** Upon recommendation of the Government Affairs Committee, the Board of Directors unanimously opposed the San Diego Unified School District's proposed parcel tax.

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The following people have applied for membership in the San Diego Association of REALTORS®. Any objections to the admittance should be addressed in writing to the Membership Committee, San Diego Association of REALTORS®, P.O. BOX 85586, San Diego, CA, 92186-5586.

## Designated REALTORS®

Cynthia Bausch - Bausch Homes  
 Jayne Choi - All Home Lending, Inc.  
 Anthony Dunne - Dunne Properties  
 Richard Farmer - Ktesius, Inc.  
 Yeong Hwang - Yeong J. Hwang  
 Bryce Lewis - Boardwalk Development, Inc.  
 Michel Madbak - Rio Services  
 John Madden - Value Home Auctions, Inc.  
 Kelly Menck - Kelly Karene Menck  
 Randall Smith - Randall K. Smith  
 Wesley Snapp - Sterling Investments Mgmt.  
 Charito Tatak - RC World Services  
 Timothy Todd - Timothy L. Todd  
 Dane Welsh - Dane Welsh, DW Rental Services

## REALTORS®

Corazon Acierto - Prudential California Realty  
 Valjean Aguilar - Keller Williams Realty  
 Deanna Allen - Keller Williams La Jolla UTC  
 Clark Anctil - Prudential California Realty  
 Melinda Anhalt - Coldwell Banker Res. Brokerage  
 Richard Bailey - Jim Kelly Realty, Inc.  
 Dorothy Barrett - ZipRealty, Inc.  
 Krista Bell - Ascent Real Estate, Inc.  
 Dalaina Booth - Keller Williams La Jolla UTC  
 Eduardo Bravo - Century 21 Solymar  
 Kelly Brightman - Prudential California Realty  
 Mark Browne - RE/MAX Pacific  
 David Brundage - Abacus Properties, Inc.  
 Eliana Burkell - Windermere Signature Properties  
 James Burnett - Big Red Real Estate  
 Sandra Carrington - Coldwell Banker  
 Michael Carter - American City Realty  
 Judith Casale - Fit Properties  
 Elise Chetron - Coldwell Banker Res. Brokerage  
 Desmond Collins - Coldwell Banker Res. Brokerage

DaSean Cunningham - ZipRealty, Inc.  
 Paige Danielson - Ronald D McMahon  
 Teresita Dela Pena - Coldwell Banker Premier  
 Chad Francisco - California Property Investment  
 Kerry Garnett - Green Box Homes  
 Yee Mei Gee - BCS Real Estate Services  
 Esperanza Gomez - Keller Williams Realty  
 Michelle Goodwin-Hendrickson - Pacifica Properties  
 Kamran Hamasian - Century 21 Carole Realty  
 Tonya Hardesty - Keller Williams Realty  
 Jennifer Hawes - Coldwell Banker Residential  
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 Sarah Hollis - Prudential California Realty  
 Amir Hosseini - ZipRealty, Inc.  
 Brian Hughes - RE/MAX Coastal Properties  
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 Terri Ibarra - Century 21 Advantage  
 Gidget Janz - Prudential California Realty  
 Sharon Kahn - Active Realty & Mortgage  
 John Lake - Summit Realty Group  
 Linda LeRuth - Statewide Financial Services  
 Damian Lyon - Bill Luther Realty  
 Lawrence MacDonald - Lyons Realty  
 Ramzi Madbak - Rio Services  
 Vicki Maffei - Think Home Team, LLC  
 Jezer Manalastas - Coldwell Banker Res. Brokerage  
 Irene Manzanares - Realty Executives Dillon  
 Lauretta Matthews - Century 21 Award  
 Sean Mayer - SD Homes  
 Eddie Mejorado - Aldana Realty Company  
 Anne Marie Mihalkanin - Realty Executives  
 Ed Morales - Keller Williams Realty  
 Matthew Negrete - RE/MAX Pacific  
 Karl Niederer - Century 21 1st Choice Realty  
 Judith Otero - Canmar Realty  
 James Ourand - Prudential California Realty  
 Theresa Owen - Realty Executives  
 Andres Paniagua - Del Realty  
 Adam Paulsen - Acre Investment Real Estate  
 Kerry Payne - Willis Allen Real Estate  
 Marisa Ponce - Century 21 All Real Estate  
 William Purviance - ZipRealty, Inc.  
 Matthew Reibert - Lighthouse Brokerage Group

Michael Reilly - Realty Source, Inc.  
 Robert Reinish - Real Living Napolitano Real Estate  
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 Jonathan Sanders - Prudential Dunn, REALTORS®  
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 Vincent Scuncio - Fidelis Real Estate  
 Susan Slade - D. L. Properties  
 Robert Stark - Weichert, REALTORS® Elite  
 Terri Stevens - Andrew Arroyo Real Estate, Inc.  
 Stacey Studebaker - Coldwell Banker Residential  
 Kimberly Swartz - Century 21 San Vicente, Inc.  
 Claudia Tiefenbacher - Scott & Quinn  
 Christopher Toogood - Willis Allen Real Estate  
 John Tovey - Prudential California Realty  
 Gary Tucker - Alberts and Associates, Inc.  
 Jessica Vance - SD Homes  
 Renee Vento - Evergreen Realty & Associates  
 Michael Walsh - Wind & Sea Realty, Inc.  
 Dionde Weaver - Century 21 Carole Realty  
 Sharon Willey - Keller Williams Realty  
 Sylvania Williams - Prudential California Realty  
 Gideon Wiseman - Willis Allen Real Estate  
 Yunjing Zhang - Kareic Real Estate & Investment

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 Edward Carter - American City Realty  
 Mark Champlin - Fidelis Real Estate  
 Mark Fitzpatrick - Fitzpatrick & Prince Real Estate  
 Brian Fox - Ameritage Realty  
 John Robison - Excel Realty, Inc.  
 George Serochi - Century 21 All Service

### REALTORS®

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# COUNTY'S BLUEPRINT FOR GROWTH FALLS SHORT

By Scott Molloy

In its twelfth year of development, the County of San Diego's process for updating their General Plan is finally nearing completion. The General Plan is the County's blueprint for growth for the 84% of the County that is unincorporated. After more than a decade and millions of dollars spent, the plan largely resembles two propositions that were soundly rejected by voters in 1998 and 2004, Propositions B and A, respectively. Those propositions proposed eliminating virtually all the property rights on more than 600,000 acres of agricultural, ranch, forest, and rural lands with a staggering reduction in zoning rights. Fortunately, the voters saw through these ballot measures because of the disproportionate impacts they would have on the County's farmers and the inherent unfairness of wiping out someone's property rights without any compensation.

To the frustration of farmers, many County businesses, landowners, and residents, and other stakeholders, the County's Draft General Plan bears a remarkable resemblance to these failed propositions. The draft plan proposes a severe downzoning

of roughly 400,000 acres of privately property, leaving these lands virtually worthless and with no ability to be used by their owners.

The plan also lacks the basic ingredients for accommodating new homes and businesses in the various large, medium and small communities in the County's unincorporated areas. Instead of laying out the policies and tools for communities to grow responsibly, the General Plan Land Use Element defers to individual community plans on whether the basic planning principles (the "Guiding Principles") that are fundamental to the Plan will be implemented.

For example, the concept of building new housing projects with smaller rural lots surrounded by green space is being prohibited or restricted by several community plans. Some of these plans instead allow only low-density housing spread out across the landscape in a checkerboard pattern. With the zoning determining the number of houses that can built, environmentalists, farmers, builders and other stakeholders are all in agreement that it makes more sense to consolidate the footprint of these homes

and preserve more rural and open space with each project.

The plan also lacks some of the tools necessary for communities to grow responsibly through environmentally superior infrastructure solutions. Much of the County is relegated to the use of on-site private septic systems and groundwater. Although many areas of the County are within reach of sewer and water service, the General Plan will not allow extension of these services. Areas that are on septic cannot install the more advanced and environmentally superior advanced treatment units (alternative septic systems) that are much cleaner for the environment and require less land for the leach fields.

The County's General Plan is long in the making, but still falls short on some of its core objectives. SDAR and the many stakeholders involved are optimistic that the County Board of Supervisors will lead the process onto the right track by eliminating the downzoning, fixing the overly restrictive and weak policies of the plan, and developing the planning tools necessary for the County to grow responsibly.

## NEW ONLINE OPEN HOUSE AND RENTAL LISTINGS

SDAR now has a new way for you to add your open house and rental listings to our website. Via the "My Account" feature -- which allows you to see invoices, track your classes, and more -- you can now enter your upcoming open houses and rental vacancies.

Simply click on the red "My Account" tab on our website, sign in with your member number and password (same as used for IMS), and click on the appropriate heading. Enter the open house information as prompted. These listings are automatically removed once the open house date has passed.

You may add rental vacancies to our new online hot sheet just as easily by clicking on the rental heading. All the fields previously available on our fax-back form are available here. You may make changes to information you've already posted such as price and availability date.

Open house and rental listings are available to the general public on our main "Buyers/Sellers" page. In addition, open houses can be accessed via the "Property Search" page and rentals via the "Rental Information & Listings" page. For more information or if you need assistance, please call (858) 715-8026.

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## CARAVAN CORNER

**Metro Caravan** was founded in the 1980s to provide a forum for agents from different companies serving the metropolitan areas of San Diego to get together and pitch listings and buyer needs, encourage greater cooperation and trust among our members, elevate professional standards by sharing information important to our practice, and facilitate our business growth by mining our individual expertise for the good of the group. Agent guests who visit from other areas consistently say that we are the most welcoming, fun, and spirited group in San Diego. An atmosphere of mutual respect and pursuing a common goal are the factors that foster just such an experience.

Metro includes the neighborhoods of Mission Hills, Hillcrest, University

Heights, Bankers Hill, North Park, Normal Heights, Kensington, City Heights, Talmadge, El Cerrito, Rolando, and parts of the College Area. The members of Metro reflect the diversity and rich history of these wonderful, eclectic villages of San Diego.

We meet every Friday morning at 8:30 a.m., at the Terra Restaurant, a very comfortable and classy venue on Vermont Street in Hillcrest's Uptown District. Terra provides free coffee and an optional breakfast buffet for \$5 per person. The cost of this plush site is paid for by charges of \$3 for admission, \$1 per pitch, and \$60 each week paid by the various sponsors, who are typically affiliated businesses. Sponsors are given five minutes of prime audience time to promote his or her service, product or process.

The first thing on our agenda each week is welcoming newcomers, so their turn to pitch will be more comfortable. On the last Friday of the month, at 7:30 a.m., before our regular meeting, we have an "Investor's Meeting" where experts provide 45 minutes of information about exchanges, buying and turning foreclosures, investment property evaluation, lending rules, or one of our favorites, Alan Nevin's Market Assessment.

Every six months we have a "board meeting," comprised of anyone who shows up at the announced time, and we elect two new chairpersons for the next half-year of meetings; one from a large company and one from a small company. The same company is never represented two administrations in a row.

Metro is all about change and diversity, and building supportive relationships. So many transactions have grown out of the "goodwill" of agents, created in our organization! Several times a year we have social events, most often with the Downtown agents group.

Probably the most distinctive feature about Metro is the enormous trust we have created within the group. Agents feel confident in the professional relationship with one another, that they often discuss prospective business in order to put a deal together for the greater good of the client. We hope all of you will find a time to visit. Walk in and find out how welcome you are. For more information visit [www.sdmetrorealty.org](http://www.sdmetrorealty.org).

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1. Based on 2008 yearend statistics by Inside Mortgage Finance 1/30/09.
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# BEWARE THE SILVER-TONGUED DEVIL

By Kathy Mehringer and D.W. Duke

The following article is a recreation of a proposal that was submitted to Kathy Mehringer by a real estate agent who had been offered an opportunity that seemed too good to be true. The legal analysis is a response prepared by D.W. Duke and Kathy Mehringer. Kathy is a broker and mediator and is the Director of Risk Management for Coldwell Banker Residential Real Estate Brokerage, Southern California Companies. D.W. Duke is a partner in the Law Firm of Spile, Siegal, Leff & Goor, LLP, a member of the California Association of REALTORS® Strategic Defense Panel and the author of numerous books and articles on various topics of law. The subjects they teach include real estate ethics, law and short sale survival.

Dear Lawyer,

I am writing to you today to obtain some legal advice. As a real estate practitioner for nearly 25 years, I have been careful to adhere to all industry and statutory regulations. The climate today is different than anything I have seen in the past, and it seems as though unique business models are around every corner.

I have recently been presented with an opportunity that, quite frankly, seems too good to be true. For that reason, I am asking that you review the basics of the proposal and advise as to how I may be able to participate without risk. Looking forward to hearing from you.

Details of business proposal:

A short sale negotiation/mitigation firm ("negotiator") has approached me with a list of pre-foreclosure properties in the surrounding market area. The negotiator/investor firm operates under an LLC. The plan suggests that I would contact the owners to discuss listing opportunities and the advantages of a short sale.

Once listed, the short sale negotiator would be introduced to the homeowner. At that time the negotiator reveals himself/herself as investor and would present an under-market, all-cash offer. (Of course they would represent themselves because they also have a brokerage firm.) They told me the all-cash offer is what will trigger the appraisal and get the bank interested.

The seller would then be advised

(by the negotiator/investor) to put the property into a trust. (The negotiator/investor would record the trust.) By the way, the seller would also sign a third-party authorization empowering the negotiator/investor to work with the lender to get the low offer approved, often getting the price down even lower by manipulating the bank's BPO. (There are videos on the internet that teach real licensees how to do that).

Once the bank approves the negotiator's offer, I would be authorized to list the property in the MLS at true market value. Of course the seller would then be negotiator/investor; I guess you call it a flip.

The documents that the seller signs, which I can send to you upon request, disclose the fact that the negotiator intends to sell for a profit. I am told the bank doesn't care one way or the other.

There are two more items that are a little over my head. The negotiator said something about taking a beneficial interest in the seller's trust to facilitate a trust-to-trust transfer because of some tax loophole. Additionally, the negotiator/investor records the contract of sale. I am not sure why this is done, but I didn't want to leave anything out.

It seems really straightforward. The documents the seller signs disclose everything, although there are a few clauses that might be questionable.

I was hoping you could tell me how I can become involved and do this the right way.

I look forward to hearing from you.  
"A REALTOR® in fantasy land"

#### Legal Analysis of Letter:

In this climate of financial uncertainty and the commensurate high rate of foreclosures, many schemes and plans to take advantage of others will present themselves. Often these schemes are presented by individuals who honestly intend to assist the homeowner in avoiding foreclosure or to help them ameliorate the severity of their loss. While NAR, C.A.R. and many local associations have been teaching the dangers of these schemes and plans, many individuals are "out of the loop" in the sense that they are not aware of the legal ramifications of their actions. This letter

is a perfect example of the manner in which REALTORS® can easily be induced to engage in activities that violate not only the NAR Code of Ethics, but often federal and state law.

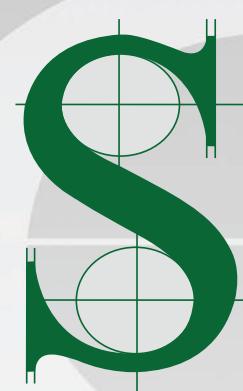
One of the first questions raised by this letter is whether the negotiator is operating lawfully through the LLC. Unlike a corporation, an LLC cannot hold a broker's license. B&P Code § 10131(d) requires that short sale negotiators hold a valid real estate license. Moreover, B&P Code §10137.1 provides that partnerships may perform activities for which a real estate license is required only if every partner through whom the partnership acts is a licensed real estate broker. Note that under this statute a sales license is not sufficient. The statute specifically requires a broker's license for each partner through whom the partnership acts. The first question raised by the above letter is whether the LLC is operating lawfully.

A second problem we notice in this letter is that the REALTOR® is failing to disclose important information to the seller prior to the time he takes the listing. Civil Code §2079.16, and other code sections, impose upon the REALTOR® a duty to disclose certain information prior to taking the listing. Moreover, when a fiduciary relationship is established, the agent has a duty to disclose all material facts that

might influence the client's willingness to enter into a transaction. See: Roberts v. Lomanto (2003) 112 CA4th 1553, 1567, 5 CR3d 866, 867. A listing agent is required to disclose to the seller his relationship with the buyer even if he has no financial interest in the transaction other than his commission. See: Smith v. Zak (1971) 20 CA3d 785, 794-795, 98 CR 242, 248.

In the above scenario, the negotiator seeks to avoid the obligation to disclose by implying that the fiduciary duty did not arise until the agency contract is formed. Note that he says that only after the listing is taken the negotiator is introduced and the question in this context is whether the Seller would have entered into the transaction if he had known that the listing agent was actually working with a short sale negotiator who intends to purchase the property. The fatal error in his logic is that the agency relationship and the fiduciary duty arise before the listing agreement is signed. The agency relationship arises as soon as the parties agree that the REALTOR® is going to list the property, which is prior to the time the listing agreement is signed. The listing agreement simply memorializes the intent of the parties. It follows that the duty to disclose and the duty of honesty and fair dealing arise even before the listing

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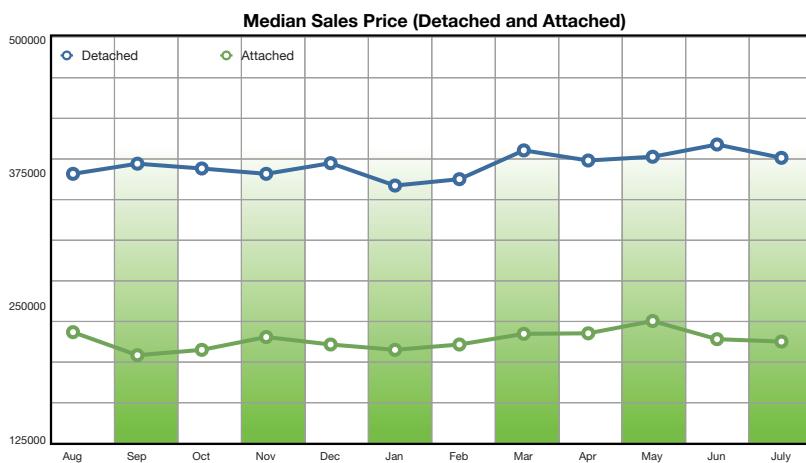
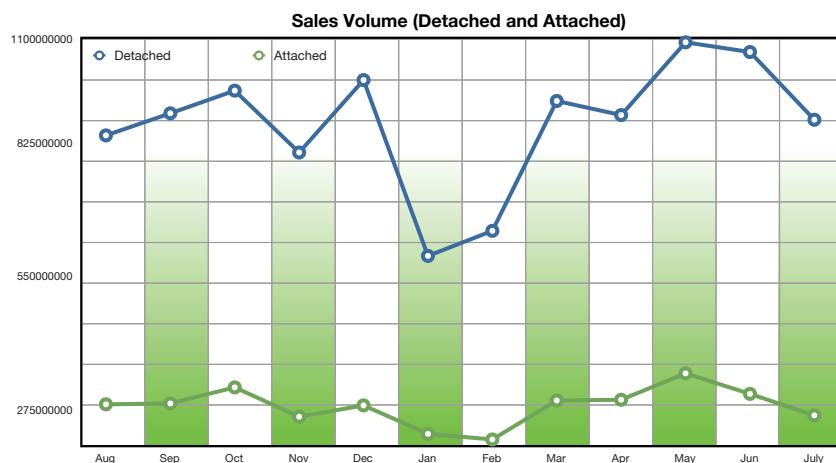
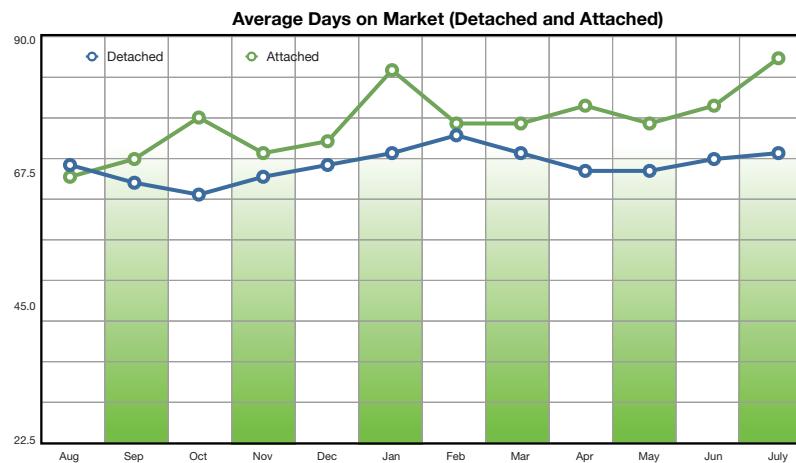


# JULY STATISTICS DETACHED HOMES

Current Year - 2010								Previous Year - 2009								Current Year - 2010								Previous Year - 2009							
SOLD LISTINGS		AVG DAYS ON MARKET		MEDIAN PRICE*		SOLD LISTINGS		AVG DAYS ON MARKET		MEDIAN PRICE*		SOLD LISTINGS		AVG DAYS ON MARKET		MEDIAN PRICE*		SOLD LISTINGS		AVG DAYS ON MARKET		MEDIAN PRICE*									
Zip Code	Market Area	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD						
91901	Alpine	12	100	68	76	\$477,500	\$425,000	14	96	77	90	\$469,950	\$430,000	32	235	88	67	\$642,000	\$530,000	48	224	61	74	\$560,000	\$480,950						
91902	Bonita	9	80	68	74	\$469,900	\$460,000	12	87	65	65	\$407,500	\$425,000	23	211	117	84	\$300,000	\$315,000	35	200	79	94	\$325,000	\$330,000						
91905	Boulevard	3	10	86	93	\$55,000	\$125,000	2	13	116	92	\$202,500	\$155,000	0	0	0	0	\$0	\$0	0	3	0	63	\$0	\$108,880						
91906	Campo	4	29	217	97	\$175,000	\$145,000	5	47	21	96	\$112,390	\$158,000	17	107	217	170	\$2,100,000	\$1,942,500	10	56	113	133	\$2,325,000	\$2,525,000						
91910	Chula Vista	26	233	57	61	\$322,000	\$330,000	34	242	78	70	\$290,000	\$304,950	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0						
91911	Chula Vista	32	242	94	71	\$289,500	\$289,900	45	333	59	67	\$236,000	\$270,000	30	233	71	72	\$335,000	\$350,000	33	223	55	65	\$390,000	\$340,000						
91913	Chula Vista	43	301	110	89	\$375,000	\$379,900	31	314	54	67	\$368,000	\$380,000	0	2	0	7	\$0	\$264,450	1	4	72	206	\$85,000	\$307,500						
91914	Chula Vista	23	135	52	79	\$525,000	\$505,000	25	175	67	67	\$535,000	\$500,000	27	208	46	51	\$335,000	\$344,000	24	205	69	73	\$355,300	\$321,000						
91915	Chula Vista	30	225	68	86	\$360,000	\$380,000	40	299	84	79	\$366,500	\$365,000	23	211	117	84	\$300,000	\$315,000	35	200	79	94	\$325,000	\$330,000						
91916	Descanso	1	13	66	107	\$285,000	\$227,500	0	9	0	200	\$0	\$215,000	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0						
91917	Dulzura	0	2	0	116	\$0	\$207,500	0	1	0	46	\$0	\$200,000	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0						
91931	Guatay	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0						
91932	Imperial Beach	6	60	58	54	\$265,000	\$287,500	14	56	45	81	\$241,500	\$267,450	21	155	68	74	\$243,000	\$252,000	27	200	96	71	\$240,000	\$236,000						
91934	Jacumba	0	4	0	53	\$0	\$92,500	1	5	8	31	\$120,000	\$72,900	21	163	111	79	\$375,000	\$325,000	34	217	74	76	\$321,000	\$285,000						
91935	Jamul	3	53	90	94	\$629,900	\$389,000	5	40	90	84	\$521,000	\$488,500	0	5	0	143	\$0	\$220,000	0	4	0	45	\$0	\$200,275						
91941	La Mesa	22	173	76	75	\$592,500	\$405,000	28	183	68	67	\$333,750	\$352,000	1	14	75	132	\$2,535,000	\$2,465,000	4	11	355	242	\$1,956,250	\$1,750,000						
91942	La Mesa	22	118	71	52	\$326,500	\$331,325	6	58	75	61	\$327,000	\$340,000	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0						
91945	Lemon Grove	22	134	60	72	\$282,450	\$271,475	23	160	77	76	\$232,000	\$230,000	7	0	35	35	\$0	\$645,000	0	3	0	159	\$0	\$480,000						
91948	Mount Laguna	1	3	112	112	\$50,000	\$96,600	0	5	0	254	\$0	\$115,000	13	107	95	61	\$257,000	\$201,000	16	105	60	63	\$121,700	\$162,000						
91950	National City	25	142	91	69	\$227,000	\$220,000	23	196	55	61	\$175,000	\$175,000	13	72	78	66	\$599,000	\$619,500	6	60	42	75	\$722,000	\$610,000						
91962	Pine Valley	2	19	120	110	\$256,000	\$245,000	3	12	26	102	\$270,000	\$275,000	18	115	70	67	\$474,500	\$460,000	17	94	27	61	\$405,000	\$432,500						
91963	Potrero	0	1	0	41	\$0	\$104,000	1	4	222	107	\$45,000	\$124,500	23	176	51	59	\$245,000	\$230,000	24	216	27	68	\$187,500	\$180,500						
91977	Spring Valley	29	276	62	72	\$273,000	\$285,000	49	415	59	68	\$215,000	\$225,000	9	79	90	83	\$815,000	\$760,000	22	73	98	91	\$758,750	\$767,000						
91978	Spring Valley	7	36	106	95	\$350,000	\$357,250	4	51	107	74	\$412,500	\$379,900	12	71	49	65	\$706,000	\$710,000	7	52	82	67	\$799,000	\$642,611						
91980	Tecate	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	0	6	0	128	\$0	\$500,500	1	3	29	16	\$485,000	\$485,000						
92003	Bonsall	4	30	194	93	\$652,500	\$532,000	6	25	68	101	\$309,000	\$400,000	15	93	88	81	\$700,000	\$725,000	11	61	57	79	\$910,000	\$760,000						
92004	Borrego Springs	1	45	108	196	\$409,500	\$217,500	3	32	145	182	\$111,000	\$155,000	10	43	107	54	\$501,000	\$535,000	6	41	54	72	\$622,500	\$510,000						
92007	Cardiff By The Sea	4	40	61	87	\$1,429,130	\$840,000	7	28	47	75	\$832,500	\$787,500	15	119	45	42	\$360,000	\$399,000	10	86	73	49	\$384,000	\$360,000						
92008	Carlsbad	7	77	38	74	\$575,000	\$650,000	8	71	133	72	\$712,500	\$549,000	18	117	68	45	\$187,500													

# JULY STATISTICS ATTACHED HOMES

Current Year - 2010								Previous Year - 2009								Current Year - 2010								Previous Year - 2009							
Zip Code	Market Area	SOLD LISTINGS		AVG DAYS ON MARKET		MEDIAN PRICE*		SOLD LISTINGS		AVG DAYS ON MARKET		MEDIAN PRICE*		Zip Code	Market Area	SOLD LISTINGS		AVG DAYS ON MARKET		MEDIAN PRICE*		SOLD LISTINGS		AVG DAYS ON MARKET		MEDIAN PRICE*					
		Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD			Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD	Mth	YTD						
91901	Alpine	1	8	134	137	\$155,000	\$158,750	1	9	24	113	\$156,000	\$170,000	92064	Poway	2	25	43	56	\$247,450	\$275,000	5	34	45	75	\$179,000	\$191,500				
91902	Bonita	4	11	73	75	\$195,750	\$141,500	3	31	6	75	\$220,000	\$176,000	92065	Ramona	4	25	139	96	\$198,250	\$135,900	3	32	33	113	\$110,000	\$139,950				
91905	Boulevard	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	92066	Ranchita	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0				
91906	Campo	0	1	0	0	\$0	\$87,950	0	0	0	0	\$0	\$0	92067	Rancho Santa Fe	3	4	75	86	\$800,000	\$797,500	0	2	0	87	\$0	\$0				
91910	Chula Vista	12	96	49	77	\$152,500	\$153,500	15	137	72	87	\$138,000	\$153,500	92068	San Luis Rey	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0				
91911	Chula Vista	12	126	81	57	\$118,500	\$135,000	29	202	64	72	\$125,000	\$125,000	92069	San Marcos	10	71	82	67	\$182,500	\$140,000	10	86	51	76	\$126,500	\$139,950				
91913	Chula Vista	32	185	157	104	\$212,000	\$218,000	22	164	84	83	\$196,950	\$209,500	92070	Santa Isobel	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0				
91914	Chula Vista	11	58	77	104	\$230,000	\$215,900	7	64	122	57	\$209,000	\$218,250	92071	Santee	15	132	106	82	\$200,000	\$190,000	16	128	57	75	\$167,500	\$181,475				
91915	Chula Vista	17	120	107	114	\$230,000	\$235,000	16	121	133	85	\$213,810	\$220,000	92075	Solana Beach	8	54	73	67	\$650,000	\$642,500	8	47	65	83	\$515,000	\$579,000				
91916	Descanso	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	92078	Vista	19	130	90	74	\$286,000	\$285,500	10	96	68	86	\$332,500	\$260,000				
91917	Dulzura	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	92081	Vista	5	25	160	69	\$172,000	\$180,000	4	27	139	97	\$158,000	\$168,000				
91931	Guatay	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	92082	Valley Center	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0				
91932	Imperial Beach	7	51	106	95	\$145,000	\$120,000	11	43	66	106	\$173,000	\$175,000	92083	Vista	5	58	87	66	\$182,000	\$174,000	6	36	77	83	\$117,500	\$124,500				
91934	Jacumba	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	92084	Vista	8	37	152	88	\$153,500	\$162,000	2	37	93	63	\$152,500	\$128,000				
91935	Jamul	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	92086	Warner Springs	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0				
91941	La Mesa	1	29	71	101	\$155,000	\$155,000	9	44	95	82	\$260,000	\$169,750	92091	Rancho Santa Fe	3	10	45	113	\$535,000	\$573,500	2	10	55	81	\$652,000	\$683,404				
91942	La Mesa	8	84	92	69	\$159,000	\$200,000	11	50	76	106	\$184,000	\$190,000	92093	La Jolla	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0				
91945	Lemon Grove	5	22	41	69	\$112,500	\$107,250	3	27	209	123	\$110,000	\$107,000	92101	San Diego Downtown	54	525	85	93	\$362,500	\$332,500	89	462	72	75	\$365,000	\$377,000				
91948	Mount Laguna	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	92102	San Diego	8	47	116	84	\$189,500	\$115,000	7	54	72	68	\$210,000	\$123,508				
91950	National City	10	57	76	86	\$138,950	\$119,900	4	47	66	105	\$64,500	\$105,000	92103	Mission Hills	15	141	75	83	\$300,000	\$355,000	23	125	81	76	\$395,000	\$350,000				
91962	Pine Valley	0	1	0	412	\$0	\$35,000	0	0	0	0	\$0	\$0	92104	North Park	13	118	69	76	\$150,000	\$199,000	16	109	95	80	\$195,000	\$170,000				
91963	Potrero	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	92105	East San Diego	12	93	63	80	\$64,500	\$79,000	8	106	53	68	\$86,500	\$76,500				
91977	Spring Valley	10	78	100	78	\$172,500	\$154,113	19	117	86	88	\$127,000	\$115,000	92106	Point Loma	6	23	98	80	\$418,250	\$450,000	3	24	101	72	\$326,000	\$490,001				
91978	Spring Valley	3	12	14	112	\$140,000	\$139,000	2	15	101	94	\$137,500	\$127,000	92107	Ocean Beach	5	49	108	65	\$308,000	\$301,000	5	29	75	78	\$365,000	\$300,000				
91980	Tecate	0	0	0	0	\$0	\$0	0	0	0	0	\$0	\$0	92108	Mission Valley	18	175	62	77	\$310,000	\$265,000	26	157	64	62	\$222,500	\$207,000				
92003	Bonsall	3	18	50	74	\$181,170	\$141,000	3	20	9	94	\$112,000	\$116,250	92109	Pacific Beach	19	142	98	108	\$420,000	\$365,000	26	137	106	91	\$396,250	\$432,000				
92004	Borrego Springs	2	13	42	251	\$104,750	\$65,000	2	5	142	201	\$132,500	\$100,000	92110	Old Town SD	13	101	44	79	\$195,000	\$270,000	12	79	54	79	\$251,000	\$258,000				
92007	Cardiff By The Sea	4	25	40	50																										



## COMPARATIVE SALES - EXISTING HOMES - JULY 2010 SAN DIEGO COUNTY

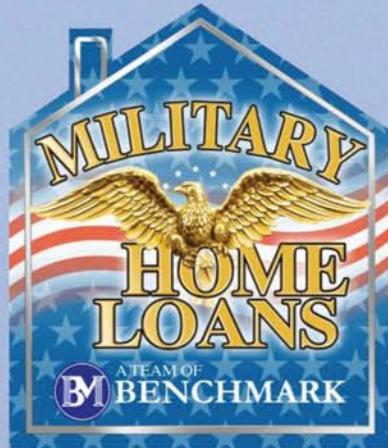
	ATTACHED			DETACHED		
	Sales	% Change from Prior Year	% Change from Prior Month	Sales	% Change from Prior Year	% Change from Prior Month
1 Total Sales Volume July 2010	\$232,201,767	-13.480	-16.020	\$841,869,035	-7.830	-14.232
2 Average Sales Price July 2010	\$266,899	2.829	0.196	\$506,540	6.589	-2.363
3 Median* Sales Price July 2010	\$217,750	3.590	-1.020	\$390,000	5.120	-3.100
4 Sold Listings July 2010	870	-15.861	-16.185	1,662	-13.528	-12.156
5 Average Days on Market July 2010	87	20.833	10.127	71	2.899	1.429
6 Total Sales Volume July 2009	\$268,380,240			\$913,388,080		
7 Average Sales Price July 2009	\$259,555			\$475,228		
8 Median* Sales Price July 2009	\$210,188			\$371,000		
9 Sold Listings July 2009	1,034			1,922		
10 Average Days on Market July 2009	72			69		

	ATTACHED			DETACHED		
	Sales	% Change from Prior Year	% Change from Prior Month	Sales	% Change from Prior Year	% Change from Prior Month
11 Total Sales Volume YTD 2010	\$1,858,472,900	11.457		\$6,111,734,500	9.340	
12 Average Sales Price YTD 2010	\$269,931	8.414		\$496,929	14.790	
13 Median* Sales Price YTD 2010	\$221,000	13.330		\$385,000	13.230	
14 Sold Listings YTD 2010	6,885	2.807		12,299	-4.748	
15 Average Days on Market YTD 2010	81	5.195		71	-4.054	
16 Total Sales Volume YTD 2009	\$1,667,429,691			\$5,589,662,346		
17 Average Sales Price YTD 2009	\$248,982			\$432,904		
18 Median* Sales Price YTD 2009	\$195,000			\$340,000		
19 Sold Listings YTD 2009	6,697			12,912		
20 Average Days on Market YTD 2009	77			74		

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**VA loans can be closed in 30 days** (even less) when a company knows what they're doing.

Several lenders (who focus on military clients – you know who I mean) are saying VA loans take a minimum of 40 days and up to 60 days. Those veterans, your buyers, are losing offers because the seller won't accept the extended escrows. **In reality, VA loans can be done in 30 days**, and if you're being told otherwise, that is the lender's limitation, not the VA's. Come work with us and close quick!

For more details on this and other critical VA information please visit us at:  
[www.Mil-Loans.com](http://www.Mil-Loans.com)  
 or email us at:  
[Info@Mil-Loans.com](mailto:Info@Mil-Loans.com)

## SANDICOR OFFERS RATEPLUG PROGRAM

Effective July 27, SDAR members gained access to RatePlug options in Tempo. This program gives brokers and agents the opportunity to display their preferred lender(s) live mortgage payment and product information with property data that is sent by email to homebuyers. RatePlug is FREE to the agent, and is a valuable tool for homebuyers that provides real-time housing payments specific to each listing. Participating lenders pay a monthly license fee to be displayed.

### **Advantages:**

- This free program for agents provides homebuyers with live, interactive mortgage payment information based on accurate interest rates, property taxes, insurance and assessments for each property listing they view.
- Homebuyers spend more time viewing property listings (approximately 6.5 minutes per property).
- New, Property Flyer System (PFS)
  - Now when an agent lists a property within the MLS system, a detailed open house flyer can be quickly generated and sent to agent via e-mail.
- The homebuyer can look at a variety of mortgage products, and play "what if" with the numbers to find the mortgage programs and payments that best fit their needs.
- Brokers can display their affiliated lender(s) and/or allow agents to choose their own lending partners (up to 3). The cost is free to you; the cost to the loan officer is \$395 per year to work with an unlimited number of agents.

For more information and a demo visit <http://www.rateplug.com/Agents.asp?Name=SANDICOR>

## REALTOR® ACTION ASSESSMENT FOR 2011 DUES BILL CYCLE

During the June business meetings in Sacramento, C.A.R.'s board of directors adopted a special assessment of \$49 per member for the 2011 dues bill cycle. The REALTOR® Action Assessment (RAA) can be directed to the California Real Estate Political Action Committee (CREPAC) or other political purposes; or, if the C.A.R. member chooses, entirely to the C.A.R. general fund for non-candidate political purposes.

Over the past few years, C.A.R.'s PAC funds have greatly diminished. C.A.R. PACs used to be in the top 10 of political action committees in California, but now ranks 37th, according to a recent study of PAC spending in California. Special interest groups routinely outspend the association's PACs on a regular basis. The RAA adopted by the C.A.R. board of directors will help rectify this growing imbalance.

Monies are used to support candidates and elected officials who are advocates for the real estate industry, regardless of political affiliation. Despite the downturn in funding, C.A.R.'s advocacy in the political arena this year: (1) helped preserve property profiles after title companies stopped providing them in a reaction to a letter issued by the Department of Insurance; (2) thrice defeated a 3-percent independent contractor withholding proposal that would have accelerated income tax payments for our members; and (3) defeated point-of-sale retrofits proposed through several pieces of legislation that could have added as much as \$20,000 per home prior to closing escrow.

*C.A.R. has developed a Frequently Asked Questions (FAQ) document for members about the RAA and is available at <http://www.car.org/governmentaffairs/RAA/RAAFAQ/>.*

## HOPE AWARDS SEEKING APPLICATIONS

Applications are now being accepted for the Home Ownership Participation for Everyone Awards. The HOPE Awards is a national industry awards program that recognizes individuals and organizations for their outstanding contributions to increase and sustain minority homeownership.

The HOPE Awards is sponsored by a partnership of real estate associations; awards are conferred every other year. Winners receive \$10,000 and paid travel expenses to attend the HOPE Awards in Washington, D.C., in May 2011.

In 2011, the HOPE Awards will celebrate 10 years of helping make the dream of owning a home possible for Americans of all backgrounds. Since the awards' inception, 30 individuals

and organizations have been awarded \$300,000 to recognize their work toward eliminating disparities and overcoming barriers to help minority buyers achieve and sustain homeownership.

The categories for the HOPE Awards are Education, Finance, Leadership, Media, Project, Public Policy, and Real Estate Brokerage. Entries are evaluated by a panel of distinguished judges, based on the impact of the nominee's work in increasing minority homeownership, use of innovative ideas, minority focus and affordability.

Individuals, nonprofit and for-profit organizations, and state and local agencies are eligible. Self-nominations are encouraged.

*The deadline for HOPE Awards applications is December 17, 2010. For more information about the awards or to submit an application, visit [www.hopeawards.org](http://www.hopeawards.org). Finalists and winners will be announced in early 2011.*

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# THE BENEFIT OF THE DOUBT

A Message from Real Estate Commissioner Jeff Davis

The recently formed Broker Supervision Task force was established in order to examine the laws, regulations and policies that shape a supervising broker's responsibilities in overseeing the activities of the brokerage and its employees. The notion behind this endeavor is to determine how existing requirements can be improved upon to ensure that consumer protections are maximized while giving supervising brokers guidance in discharging their duties.

The task force consists of leaders from the industry along with legal and enforcement staff from the DRE. While relatively new, the group has been extremely productive. One of the ideas that has been put into practice on a trial basis is the "Benefit of the Doubt program." The idea is simple: Establish clear protocols that allow the broker who fires an employee for cause to notify the DRE without fear that the DRE will automatically investigate the broker for lack of supervision. Existing law requires that a broker notify the DRE when the broker discharges an employee for a violation of the Real Estate Law. The law also requires the broker provide the DRE a detailed written description of the reasons the employee was

fired. However, based on the small number of notifications received by the DRE, it is clear few brokers are notifying the DRE when they let a rogue agent go.

The Benefit of the Doubt program will make certain that the reporting broker will not automatically be named as a suspect. All cases involving brokers who notify the DRE of the termination of a licensed employee for cause will be centralized from Sacramento, reviewing evidence and facts through a single lens. This will ensure consistency and promises that statewide investigative and compliance standards will be employed.

The program also provides for an isolated investigation focusing on alleged salesperson misconduct unless the facts warrant investigation expansion. The Benefit of the Doubt process guarantees that investigators will review the agent's history with prior brokers and look at any new current broker as well.

This program also introduces a reporting broker discipline hierarchy. If the reporting broker is found to be without gross negligence or fault, no DRE action would be taken against him or her. A reporting broker may receive a corrective action letter, which is not a public record, if tech-

nical compliance issues are uncovered despite the fact that the broker properly supervised agents either directly or through office manager designations, took actions to remedy problems, has office procedures and controls in place, and personally or through the designated office manager reviewed business activities and management reports.

Formal disciplinary action against the reporting broker would be considered when circumstances exist, such as active broker participation in unlawful acts, or when guilty knowledge is substantiated, if the reporting broker is routinely absent from the office without designating an office manager, the broker fails to oversee the office manager, no office procedures are established, or there is a demonstrated lack of oversight. Additional factors include ignoring prior corrective action letters, or if a rent-a-broker situation exists.

Prior brokers or, in some cases, new current employing brokers, will be included in the investigation pro-

cess to determine if a pattern exists which can lead to a maximum penalty against the agent. New employing brokers may also be contacted to establish the applicable disciplinary action proceedings against the previous broker, to substantiate and support reporting broker findings, to promote broker reporting, and to deter agent misconduct.

The specific governing laws and regulations for this program are Business and Professions Code Sections 10178, 10179, and 10177(h), and Section 2725 of the Regulations of the Real Estate Commissioner. Further information can be found in the Broker Compliance Evaluation Manual available on our website, [http://www.dre.ca.gov/pdf\\_docs/bbkcomp.pdf](http://www.dre.ca.gov/pdf_docs/bbkcomp.pdf).

It is my sincere hope this program is a success. We all win, the public and industry, when the bad or incompetent agents are put out of business.

*Reprinted with permission from the California Department of Real Estate, SUMMER 2010.*

## RISK MANAGEMENT

page 7 ▼

agreement is signed. They arise when the REALTOR® agrees to list the property at the very latest.

A third problem that comes into play in this case is a possible violation of the Home Equity Sales Contract Act and/or the Loan Foreclosure Consultant Act. If a Notice of Default has been recorded on a property where the seller is living in the home, and the buyer is an investor and not a specified relative of the seller, then there are a number of limitations on what can be done with the property. One of the most sweeping of these limitations is that the buyer cannot take unconscionable advantage of the seller. See: Civil Code §1695.13. The term "unconscionable advantage" is an extremely broad term. Flipping the property and selling it for a profit is a form of equity skimming and could very likely be deemed to be taking unconscionable advantage of the seller who is losing the difference between the profit and his short sale price. While he would not have been able to obtain this profit himself, it can be argued that the buyer is taking advantage of his distressed situation.

Another problem with the scenario described above is that the property will be placed into a trust. The obvious questions are: What kind of trust is this? What is the purpose of the trust? Who is the trustee and who are the beneficiaries? Is there a legitimate and lawful benefit to placing the property in a trust that cannot otherwise be achieved? If not, then why would the property be placed into a trust? These questions are critical in that a trust can be used to perpetrate a variety of illegal and fraudulent acts ranging from tax fraud to conversion of property. Whenever the use of a trust is suggested as a way of holding property, a REALTOR® should

be alerted to the possibility of an unlawful or fraudulent purpose. While holding real estate in a trust is a perfectly lawful practice, it can also be a vehicle for improper or unlawful practice and the REALTOR® should be cautious. In this case, the negotiator will be taking a beneficial interest in the trust that holds the property in question. This is even more disconcerting because, once again, the negotiator's conflict of interest is not disclosed to the seller until after the property is listed and he is making offers on the property.

The manipulation of the BPO may be outright fraud. A REALTOR® is required to be fair and honest in his dealings with all parties, including lenders. Manipulating the BPO for personal gain is an egregious form of fraud. Moreover, even if the REALTOR® is not making any direct representations concerning the value of the property, his participation in such a scheme makes him an accessory to a potential crime and subjects him to tort liability as well. Even worse, some short sale acceptance letters and releases now provide that if it is discovered that there was fraud in the short sale negotiations, the sale will be set aside and the lien will be reinstated on the property thus allowing the lender to foreclose or pursue other remedies against the seller. While it is doubtful the court would actually set aside a sale when the property is acquired by a bona fide purchaser in good faith, fraud in the short sale negotiation can certainly create serious problems for all parties to the transaction, including the REALTOR®.

In summary, we strongly advise against entering into a scheme such as the one described in this letter. If you are approached with such a scheme, we recommend that you consult with an attorney familiar with real estate law to advise you of the propriety of such transactions.

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# IT'S YOUR BUSINESS... BUYER SYSTEMS & SELLER SYSTEMS

By J.R. Thrasher - Business Development Coach

Most agents spend more time planning their family vacation than they do planning for the success of their business. It's true: less than 5% of all agents currently have a formalized business plan. This series of articles will examine the components of creating a successful real estate business plan.

In our last article we covered "Systems" in general. This article covers "Seller Systems" and "Buyer Systems" in more detail. If you missed our last article go to [www.SDAR.com](http://www.SDAR.com) and look for the link "Radio/Media." On the drop-down menu will click on "SDAR REALTOR Publications" to access all of the SDAR newspapers for the past year.

## BUYER SYSTEMS

As a new agent you will probably have more buyers in your first year than sellers. The key, however, for longevity in the real estate profession is in listings for sellers. The reason is you will probably generate more solid new clients and customers from one new listing, if worked correctly.

One of the secrets of successful real estate as a career is in developing "systems" from the first day you start. As most agents "fly by the seat of their pants" why not start with the objective of being in the producing 5% of the real estate industry by developing solid systems for your buyers first.

Doesn't working less, more time off, and producing more income sound like something you could fit into? Absolutely!

### Here is a "proposed" list of Buyer Systems you may want to develop:

- Interview Process – You'll need a checklist to use for every new person (lead) and potential buyer. Questionnaires, search requirements, financial information and at least three mortgage lender referrals.
- Showing Systems – So as not to waste a lot of time showing homes that wouldn't qualify, the only way to do this is with a formal method for decisions on what to show and how to show. The benefit of this is reduced time showing, more productive use of time while showing, and it demonstrates to the buyer that you know your business.
- Contract to Close – Here is where you need to shine. Develop a checklist that includes the activities you will be performing. This checklist will guide you and the buyer through the entire transaction.
- After Sale System – This is where you build a referral network. Do a great job throughout the transaction, stay in touch with your customers after the transaction and you will continue to flourish and increase your business exponentially each year.

## Seller Systems

Here is a crucial list of Seller Systems you will need to effectively work listings:

- The Pre-Listing Package – What do you need in a pre-listing package? How should it look? Where do you get your materials? When do you present it?

1. Information about you and your company
2. Information about the market
3. Your marketing program and mission statement
4. Staging a home
5. Pricing a home to sell
6. Steps to a fast sale
7. Always include an introductory letter with specific "to do" items for seller. If they have already completed the "to do" items before you arrive, the listing is probably already yours!!!

- The Listing Presentation – You may want to consider two presentations; the first in a binder the second in PowerPoint version. Why? Some sellers are technically comfortable and others are more touch-feel. Basically, it's up to you to decide which option you would like to use. You might also want to include some of the following in your presentation:

1. Use of scripts
2. Your awards and/or designations
3. Marketing samples
4. Marketing plan
5. Company information and statistics
6. Real estate market update
7. Closing cal- to-action!

- Your New Listing Checklist – Here is your mind-set: "What do you do each and every time you bring in a new listing?" Here you will find a checklist of everything you do during the entire listing process from signing the listing agreement to marketing, advertising, sign placement, MLS integration, open house, etc.

- Your Seller's Report – As listings are our lifeblood of real estate, so is

the importance of communication between your company, you, and your client! This report should be sent and verbalized on a weekly basis and coincide with your update call to the seller. Make sure you keep your sellers informed as this serves to set you apart from the rest of the pack. Include your website statistics for their property, inquiries, and their results, appointments and feedback, as well as any updated market statistics.

- Contract to Closing – How you do it and what you do to get your seller to closing after the contract is accepted covers a lot of ground. Without this system, your chances of stubbing your toe are very good!

Two major contract issues are always blocking thousands of agent successes:

- 1) Failure to follow through
- 2) Failure to follow up

- After-Sale Follow-Up – As is important for buyers, it is also with sellers: Your checklist of procedures in the "after-sale phase" and follow-

up system are a must. Keep this in mind: 76% of homebuyers and sellers like their agents, and 74% of them would use their agents again. However, only 9% actually do use that agent again. Why?

1. No after-sale follow-up
2. No or poor communication

Listings are critical to your long-term success in the real estate business. Concentrate on listings and you'll see your business grow, your free time increase, and your income explode.

As you can see, it is important to give ample consideration to a plan, a system, and complete understanding of your commitment level and direction. We can help you with this very important process. Give us a call at (619) 704-2290 and we will be happy to provide you with the right information and assistance so you can make the most informed decision for your real estate career.

Remember, it's your business....

For questions regarding your business planning needs you can contact J.R. Thrasher at [Thrasher@CentrixUSA.Com](mailto:Thrasher@CentrixUSA.Com)

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## **Accredited Buyer Representative (ABR)**

**Wednesday and Thursday, September 15 & 16, 2010**

ABR designees earn twice as much as agents with no designations, and 95% of homebuyers say that they highly value agent knowledge. Tuition includes a one-year membership to

the Real Estate Buyers' Agent Council. You will receive REBAC's magazine, newsletter, audiotapes, professionally created marketing tools and networking opportunities.

### Topics Covered

- Agency Theory and Practice
- Service Delivery
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- Building your Buyer Representative Business

**Instructor:** J. Alan Sappenfield, ABR, ABRM, PMN

**Time:** 9:00 a.m. – 4:00 p.m.

### Location:

San Diego Association of REALTORS®  
4845 Ronson Court, San Diego, CA 92111

### Price:

SDAR REALTORS® .....	\$299
All Others.....	\$325

## **Effective Negotiating – ABR Elective**

**Monday, September 27, 9:00 a.m. – 4:00 p.m.**

Effective Negotiating covers negotiating strategies and tactics, networking and referrals, organizational performance management and culture

differences in buying and selling. This is a great course to learn solid negotiating skills through instruction, case scenarios and role playing.

## **Senior Real Estate Specialist (SRES)**

**Tuesday and Wednesday, September 28 & 29, 2010**

Seniors are the fastest growing segment of the real estate market in the U.S. and own more real estate than any other group in the country. Yet seniors don't always have the expertise to make the best decisions about housing and investment options. Course includes: customizable newsletters for customers/clients, monthly newsletters, access to SRES blog and webinars, and placement on the SRES website.

### Topics Covered

- Receive an overview of tax laws, probate and estate planning.
- Help seniors make wise decisions about selling the family home, buying rental property, managing capital gains, and tax implications of owning, buying & selling real estate.
- Identify the changing lifestyle needs of older property owners.
- Learn the application of federal laws for the Housing for Older Persons Act (HOPA)
- Understand how Medicare, Medicaid, and Social Security impact real estate decisions for those 50 and older

**Instructor:** J. Alan Sappenfield, ABR, ABRM, PMN

**Time:** 8:30 a.m. – 4:00 p.m.

### Location:

San Diego Association of REALTORS®  
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### Price:

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# SDAR Education Schedule - September 2010

Classes subject to change or cancellation.  
Check [www.sdar.com](http://www.sdar.com) for current information.

LEGEND:  KEARNY MESA  SOUTH COUNTY  EAST COUNTY  CORONADO

August	Class Name		Time	SDAR	All Others	Credits	Presenter
30 & 31	<b>Get Acquainted with Other Contracts</b>	(RMS Price: \$150)	9:00 am – 4:00 pm	\$188	\$206	10CP	Kent Sharp, Esq.
31	<b>Power of Analysis</b>		9:00 am – 12:00 pm	\$19	\$25	3CP	Kathy Biewenga
31	<b>Power of Exchange</b>		1:00 pm – 4:00 pm	\$19	\$25	3CP	Kathy Biewenga
September	Class Name		Time	SDAR	All Others	Credits	Presenter
2	<b>When in Doubt... Disclose, Disclose, Disclose!</b>	(RMS Price: \$65)	9:00 am – 1:00 pm	\$81	\$90	4CP	Mike Spilger, Esq.
7	<b>Real Estate is a Numbers Game</b>		9:00 am – 12:00 pm	\$19	\$25	NA	John Altman
7	<b>Tempo Training - Day 1</b>		9:15 am – 4:30 pm	Free	Free	NA	Sandicor Trainer
13	<b>e-PRO® Workshop</b>		1:30 pm – 3:00 pm	Free	Free	NA	Vicky Campbell
14	<b>Pricing/CMA: The Power of "Sold"</b>		9:00 am – 12:00 pm	\$19	\$25	NA	John Altman
14	<b>zipForm® Online Lab</b>		9:00 am – 12:00 pm	\$35	\$42	NA	Kimber Backlund
14	<b>Tempo Training - Day 2</b>		9:15 am – 4:30 pm	Free	Free	NA	Sandicor Trainer
15 & 16	<b>Accredited Buyer Representative</b>		9:00 am – 4:00 pm	\$299	\$325	NA	J. Alan Sappenfield
16	<b>Tempo Tips &amp; Tricks</b>		9:00 am – 10:30 am	Free	Free	NA	Sandicor Trainer
21	<b>Your Listing Presentation</b>		9:00 am – 12:00 pm	\$19	\$25	NA	John Altman
21	<b>zipForm® Online Lab</b>		9:00 am – 12:00 pm	\$35	\$42	NA	Kimber Backlund
22	<b>Tempo Tips &amp; Tricks</b>		9:00 am – 10:30 am	Free	Free	NA	Sandicor Trainer
23	<b>VA Seminar for REALTORS®</b>		9:00 am – 11:00 am	\$10	\$15	NA	Karen Bates & Ken Bates
23	<b>Tempo Tips &amp; Tricks</b>		9:30 am – 11:00 am	Free	Free	NA	Sandicor Trainer
23	<b>e-PRO® Workshop</b>		1:30 pm – 3:00 pm	Free	Free	NA	Vicky Campbell
27	<b>Effective Negotiating</b>		9:00 am – 4:00 pm	\$99	\$109	NA	J. Alan Sappenfield
28 & 29	<b>Senior Real Estate Specialist Designation Course</b>		8:30 am – 4:00 pm	\$359	\$399	NA	J. Alan Sappenfield
29	<b>Power of Analysis</b>		9:00 am – 12:00 pm	\$19	\$25	3CP	Kathy Biewenga
29	<b>Power of Exchange</b>		1:00 pm – 4:00 pm	\$19	\$25	3CP	Kathy Biewenga
30 & Oct. 1	<b>Certified Investment Analysis Designation Course</b>		8:00 am – 5:00 pm	\$299	\$299	NA	Joseph Still

For easy registration and more information, visit [www.sdar.com](http://www.sdar.com) or call (858) 715-8040



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# SEPTEMBER 2010 CALENDAR OF EVENTS



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	SDAR COMMITTEE MEETINGS
			New Member Orientation 8:30 am – 5:00 pm (Kearny Mesa) <b>1</b>	When in Doubt... Disclose! 9:00 am–1:00 pm (Kearny Mesa) <b>2</b>		<b>3</b>	<b>4</b>
<b>5</b> "Real Estate Today" on AM 600 KOGO 9:00 am–10:00 am	<b>SDAR Closed</b> Labor Day	<b>6</b> <b>Real Estate Exchangers</b> 8:30 am–11:00 am (Kearny Mesa) <b>7</b> <b>Real Estate is a Numbers Game</b> 9:00 am–12:00 pm (East County) <b>Free Tempo Training (Day 1)</b> 9:15 am–4:30 pm (Kearny Mesa)		<b>8</b>	<b>9</b>	<b>10</b> <b>One-Day Prep Course</b> 8:30 am–5:00 pm (Kearny Mesa) <b>11</b>	
<b>12</b> "Real Estate Today" on AM 600 KOGO 9:00 am–10:00 am	<b>New Member Orientation</b> 8:30 am – 5:00 pm (Kearny Mesa) <b>e-PRO® Free Workshop</b> 1:30 pm–3:00 pm (East County)	<b>13</b> <b>Real Estate Exchangers</b> 8:30 am–11:00 am (Kearny Mesa) <b>14</b> <b>Pricing/CMA: The Power of Sold</b> 9:00 am–12:00 pm (East County) <b>zipForm® Online Lab</b> 9:00 am–12:00 pm (South County) <b>Free Tempo Training (Day 2)</b> 9:15 am–4:30 pm (Kearny Mesa)	<b>15</b> <b>Accredited Buyer Representative (Day 1)</b> 9:00 am–4:00 pm (Kearny Mesa)	<b>16</b> <b>Accredited Buyer Representative (Day 2)</b> 9:00 am–4:00 pm (Kearny Mesa) <b>Tempo Tips &amp; Tricks</b> 9:00 am–10:30 am (South County)		<b>17</b>	<b>18</b>
<b>19</b> "Real Estate Today" on AM 600 KOGO 9:00 am–10:00 am	<b>20</b> <b>Real Estate Exchangers</b> 8:30 am–11:00 am (Kearny Mesa) <b>Your Listing Presentation</b> 9:00 am–12:00 pm (East County) <b>zipForm® Online Lab</b> 9:00 am–12:00 pm (Kearny Mesa)	<b>21</b> <b>Tempo Tips &amp; Tricks</b> 9:00 am–10:30 am (East County)	<b>22</b> <b>VA Seminar for REALTORS®</b> 9:00 am–11:00 am (Kearny Mesa) <b>Tempo Tips &amp; Tricks</b> 9:30 am–11:00 am (Coronado) <b>e-PRO® Free Workshop</b> 1:30 pm–3:00 pm (Coronado) <b>International Council Event</b> (Time/Place TBD)	<b>23</b> <b>GRI – Legal Issues</b> 8:00 am – 5:00 pm (Kearny Mesa)	<b>24</b>	<b>25</b>	
<b>26</b> Everyday Heroes 5K Walk/Fun Run 8:00 am (De Anza Cove, Mission Bay Park)  "Real Estate Today" on AM 600 KOGO 9:00 am–10:00 am	<b>Effective Negotiating</b> 9:00 am–4:00 pm (Kearny Mesa)	<b>27</b> <b>Senior Real Estate Specialist (Day 1)</b> 8:30 am–4:00 pm (Kearny Mesa) <b>Real Estate Exchangers</b> 8:30 am – 11:00 am (Kearny Mesa)	<b>28</b> <b>Senior Real Estate Specialist (Day 2)</b> 8:30 am–4:00 pm (Kearny Mesa) <b>Power of Analysis</b> 9:00 am – 12:00 pm (East County) <b>Power of Exchange</b> 1:00 pm – 4:00 pm (East County)	<b>29</b> <b>Certified Investment Analysis (Day 1)</b> 8:00 am–5:00 pm (Kearny Mesa) (Day 2 on Friday, October 1)	<b>30</b>	<b>Charity 5K Walk is Sept. 26</b>   Benefit for the "Everyday Heroes" program of SDAR's Ambassadors Foundation, which helps San Diego Police Officers become homeowners. Visit <a href="http://www.WalkForCops.com">www.WalkForCops.com</a>	

All classes/events subject to change or cancellation.



A woman smiling while talking on a mobile phone.

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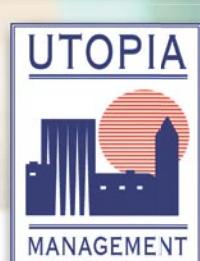
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